

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

\* \* \* \* \*

Cora Floding, individually and as  
successor trustee of the Harry W.  
Floding Trust, Floding Resort, LLC,  
and Floding Resort 2, LLC,

Plaintiffs,

vs.

REPORT AND RECOMMENDATION

Timothy Christian, Sandy Christian,  
and B-Kam, LLP,

Defendants.

Civ. No. 08-4233 (JRT/RLE)

\* \* \* \* \*

This matter came before the undersigned United States Magistrate Judge upon routine supervision of cases filed in this Division, and upon an assignment made in accordance with Title 28 U.S.C. §636(b)(1)(B).

The action was commenced on July 2, 2008, by the filing of a Complaint with the Clerk of Court. On November 4, 2008, it having appeared that one hundred and twenty (120) days had passed and the Defendants had not been served with the Complaint and Summons as required by Rule 4(m), Federal Rules of Civil Procedure, this Court issued an Order, which stated as follows:

That the Plaintiffs are directed to show good cause, in writing, within twenty (20) days of the date of this Order, for an extension of time in which service can be effectuated. In the absence of good cause shown, the Court shall Recommend that this action be dismissed for failure to effect proper service on the Defendants, and for failure of prosecution.

The Plaintiffs have failed to abide by the terms of our Order of November 4, 2008.

Since we have previously warned the Plaintiffs of the potential consequences for their failure to timely serve the Defendants, and to abide by the Orders of this Court, we recommend that this action be dismissed, for failure to comply with this Court's Order of November 4, 2008, for failure to effect proper service on the Defendants, and for lack of prosecution.

NOW, THEREFORE, It is --

RECOMMENDED:

That this action be dismissed for failure to comply with this Court's Order of November 4, 2008, for failure to effect proper service on the Defendants, and for lack of prosecution.

BY THE COURT:

Dated: December 8, 2008

*S/ Raymond L. Erickson*

Raymond L. Erickson

CHIEF U.S. MAGISTRATE JUDGE

### NOTICE

Pursuant to Rule 6(a), Federal Rules of Civil Procedure, D. Minn. LR1.1(f), and D. Minn. LR72.2(b), any party may object to this Report and Recommendation by filing with the Clerk of Court, and by serving upon all parties **by no later than December 29, 2008**, a writing which specifically identifies those portions of the Report to which objections are made and the bases of those objections. Failure to comply with this procedure shall operate as a forfeiture of the objecting party's right to seek review in the Court of Appeals.

If the consideration of the objections requires a review of a transcript of a Hearing, then the party making the objections shall timely order and file a complete transcript of that Hearing **by no later than December 29, 2008**, unless all interested parties stipulate that the District Court is not required by Title 28 U.S.C. §636 to review the transcript in order to resolve all of the objections made.